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REMARKS

Claims 1-28 were pending in this case.

The Examiner maintained the restriction requirement of the Office
5 Action of December 27, 2005. Thus, Group II claims are under prosecution.
Claims 17-25 are withdrawn as non-elected scope. The Examiner states that
claim 27 is also withdrawn. However, Applicants notice that by mistake
Applicants had marked claim 27 as being dependent on claim 25, while, in
10 fact, claim 27 should have been marked dependent on claim 26 instead (as a
pharmaceutical composition claim and not a method claim). The error is
regretted. This amendment corrects that mistake. It is, therefore, believed that
claim 27 is still under prosecution. Thus, claims 1-16 and 26-28 belonging to
Group II are under prosecution. Rejoinder of the Group IV claims with the
elected subject matter is gratefully appreciated.

15 In this amendment, Applicants are canceling, without prejudice, any
non-elected subject matter (heteroaryl and heterocyclyl moieties for R³) from
the claims to bring the claims in conformity with the elected scope. Specific
compounds falling within the non-elected scope are also deleted from claims
15 and 16. Applicants are reserving the right to file divisional applications on
20 all cancelled, non-elected scope as well as claims 17-25.

Claims 1-16, 26 and 28 were rejected under 35 U.S.C. § 103(a) as
being obvious over Birault *et al* (WO 2001/35917). Applicants submit that
Birault *et al* teach pyrazolopyridines which contain an -NH₂ moiety in the 3-
position (which is R² in the present case). All the disclosures, examples and
25 claims of Birault *et al* are drawn to this -NH₂ for R² since their compounds are
for dyes which require an amine functionality at that position. There is no
teaching or even suggestion in Birault *et al* to make compounds that contain
no -NH₂ in that position or as pharmaceutical compounds. In the present
amendment, Applicants are deleting amine (-NR⁶R⁷) from the definition of R².
30 Additionally, since R² could be R⁹ and the definition of R⁹ still contains amine
(-NR⁵R¹⁰), this amendment imports the specific definitions of R⁹ into R²
excluding -NR⁵R¹⁰. Thus, no new matter is added. Applicants, therefore,
believe that the amended claims cannot be considered obvious over Birault *et al*. Withdrawal of the § 103(a) rejection is, therefore, respectfully requested.

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It is respectfully submitted that any amendment herein is made only with a desire to advancing the prosecution of the claims on merit into allowance and not as an admission of any non-patentability. The right to file divisional applications on any cancelled scope is preserved.

5 There being no other rejection pending, Applicants believe that the claims are in allowable condition and such an action is earnestly solicited. If the Examiner has questions, the Examiner is invited to contact the undersigned.

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Respectfully submitted,



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